

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2015-090582

05/22/2015

HONORABLE BETHANY G. HICKS

CLERK OF THE COURT

I. Ostrander

Deputy

IN RE THE MARRIAGE OF
BENJAMIN DONIE

KELLY MENDOZA

AND

LYNDA DONIE

GIANCARLO A. SAPELLI

FAMILY SUPPORT SERVICES-CCC

**TEMPORARY ORDERS HEARING
TEMPORARY ORDERS MODIFIED
TRIAL TO THE COURT SET**

Courtroom 301 SEF

10:00 a.m. This is the time set for hearing regarding Petitioner's *Expedited Motion for Temporary Orders* filed on May 11, 2015. Petitioner/Father is present and is represented by counsel, Kelly Mendoza. Respondent/Mother is not present but is represented by counsel, Candace Kallen for Giancarlo A. Sapelli.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

LET THE RECORD REFLECT prior to commencement of this proceeding, Benjamin Donie (Father) is sworn.

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Counsel for Mother addresses the Court regarding Mother's nonappearance.

LET THE RECORD REFLECT that this matter was set for 9:45 a.m. and it is now 10:05 a.m. and Mother has failed to appear for today's proceeding and has not contacted the Court's staff.

THE COURT FINDS that this is a properly noticed proceeding and Mother has failed to appear without good cause shown. The matter shall proceed in Mother's absence.

Counsel for Father addresses the Court.

Father addresses the Court.

Discussion is held.

THE COURT FINDS that it is in the child's best interest that Father have sole legal decision-making authority.

IT IS THEREFORE ORDERED awarding Father temporary sole legal decision-making authority for the child: Charlotte Donie, born August 29, 2009.

THE COURT FURTHER FINDS, on at least a temporary basis and without further information, that unsupervised parenting time between Mother and the child would endanger the child's physical, mental, moral, and emotional health.

IT IS THEREFORE ORDERED that Mother may exercise only supervised parenting time with the child for no less than four hours each Sunday as can be arranged by Father and Mother. Mother's parenting time shall be supervised by Father, paternal grandmother, or Father's designee. If Mother does not agree to Father, paternal grandmother, or a designee supervising her parenting time, her parenting time shall be supervised by Parenting Skills Program (2131 E. Broadway Road, Suite 15, Tempe, Arizona 85282; 480-967-6895), Arizonans for Children (1112 W. Camelback Road, Phoenix, Arizona 85013; 602-252-2270), FreshStart Academy (3514 N. Power Road, Suite 103, Mesa, Arizona 85215; 480-361-5601), or similar agency at Mother's sole expense.

Further discussion is held.

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LET THE RECORD REFLECT that Father agrees to continue paying the following on a temporary basis:

- \$1,500.00 per month for temporary spousal maintenance;
- The payment and insurance on Mother's vehicle;
- Mother's medical insurance; and
- The monthly deficit on the rental home in Tucson.

IT IS ORDERED modifying the temporary orders entered on April 14, 2015, as follows:

- Father is awarded exclusive use of the marital residence. Father shall be responsible for payment of the mortgage and related expenses for the home.
- Father's obligation to pay temporary child support to Mother is terminated, effective June 1, 2015.
- Pending further Court order, Mother is not obligated to pay child support to Father.

Based upon the modified temporary orders, an amended *Income Withholding Order* is issued to reflect the payment of spousal maintenance only in the amount of \$1,500.00 per month.

The *Income Withholding Order* is initiated electronically by the above-named deputy clerk; confirmation no. 438780.

IT IS FURTHER ORDERED that at any time an *Income Withholding Order* is not paying the spousal maintenance obligation in full, Father shall make full and timely payments directly to the Support Payment Clearinghouse in accordance with the instructions for making support payments through the Clearinghouse attached hereto. The payment should show the cause number and/or ATLAS case number, the name of the party paying support, and the name of the party who will receive the payment.

If payments are made directly to the person who is to receive the support, the payments may be considered a gift and no credit will be given towards the support obligation.

Any change in the paying party's employment and any change in the residential address of either party must be submitted to the Clerk's office, in writing, within ten (10) days of the change [A.R.S. § 25-322(C)]. Failure to notify the Clerk's office of any change may be considered contempt of Court.

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Further discussion is held.

At the request of Father,

IT IS ORDERED that Father may leave the state with the child for summer vacation. Father must provide Mother with a written itinerary of the travel, including contact information.

As circumstances have changed,

IT IS ORDERED granting leave for Father's counsel to file an amended Petition for Dissolution. Mother's counsel may then respond.

LET THE RECORD REFLECT that counsel agree to meet and confer to arrange for private mediation.

IT IS FURTHER ORDERED setting **Trial to the Court on October 8, 2015, at 9:00 a.m. to 12:00 p.m. and at 1:30 p.m. to 2:30 p.m. (4 hours allotted)** in this division:

Maricopa County Superior Court
Southeast Judicial District
222 E. Javelina Avenue
Courtroom 301
Mesa, Arizona 85210

NOTE: Effective July 6, 2015, Honorable Bethany G. Hicks will be retiring. Accordingly, this matter will be heard by the newly assigned judicial officer, Honorable Ted Campagnolo.

Failure of a party to appear may result in the Court allowing the party who does appear to proceed by default. Failure of both parties to appear may result in this action being dismissed.

IT IS ORDERED all discovery shall be completed by **September 8, 2015**.

IT IS FURTHER ORDERED no later than **October 1, 2015**, the parties shall file and provide this division with a copy of a Joint Pre-Trial Statement pursuant to Rule 76, *Arizona Rules of Family Law Procedure*. If a Joint Pre-Trial Statement is impossible, then this Court will accept separate Pre-Trial Statements.

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IT IS FURTHER ORDERED that the Joint Pre-Trial Statement shall include:

1. A current *Affidavit of Financial Information* (AFI) completed by each party. **Each party shall attach to the AFI income tax returns for the last two years AS FILED, with all schedules, earning statements, and other such documentation necessary to establish or prove his/her income.**
2. If there are disputed custody, access, or visitation issues, a specific proposal for custody and parenting time.
3. If there are disputed child support issues, a current *Parent's Worksheet for Child Support Amount* completed by each party pursuant to the Statewide Child Support Guidelines.
4. If the parties have a natural or an adopted minor unemancipated child in common, proof of compliance with the Parental Education Program requirements of A.R.S. § 25-351 et seq.
5. If there are disputed issues regarding division of property, a current and detailed inventory of property and debts, together with a summary proposal by each party as to how the property and assets should be divided. If possible, the Court prefers a one-page statement of all property except personal property items valued at less than \$500.00 each.
6. If spousal maintenance is requested and disputed, each party shall state the amount and duration of spousal maintenance requested.
7. If division of debts is an issue, the parties shall prepare and exchange a list of all debts, including creditor's name, amount of debt, monthly payment amount, the reason the debt was incurred, who should pay the debt, and all of the information required by A.R.S. § 25-318(H).
8. If there is a disputed issue regarding the payment of attorney's fees by either party, an affidavit of the attorney's fees submitted in accordance with the requirements of Rule 78(D), *Arizona Rules of Family Law Procedure*.

IT IS FURTHER ORDERED that the failure of counsel or any party to appear at the time of trial or to timely present the *Joint Pre-Trial Statement* in proper form, including each and every attachment required, shall, in the absence of good cause shown, result in the imposition of any and all available sanctions pursuant to Rule 76(D), *Arizona Rules of Family Law Procedure*, including proceeding to hear this matter by default based upon the evidence presented by the appearing party.

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IT IS FURTHER ORDERED that the parties and counsel, if represented, shall provide to the clerk of this division any exhibits they seek to admit into evidence. **All exhibits must be clearly identified, must be separated by a COLORED sheet of paper, and must be hand-delivered to the clerk of this division no later than 11:00 a.m. on October 1, 2015. All exhibits shall be hand-delivered directly to court staff at this division's suite.** No exhibits shall be presented for marking that have not been previously exchanged. No duplicate exhibits shall be presented for marking. **Failure to obey these orders may result in exclusion of the exhibit and/or waiver of objections. NOTE: THIS DIVISION WILL NOT ACCEPT A BENCH COPY OF THE EXHIBITS.**

IT IS FURTHER ORDERED that the parties shall indicate in the *Joint Pre-Trial Statement* those exhibits they have agreed will be admissible at trial, as well as any specific objections that will be made to any exhibit, if offered at trial, that the parties have not mutually agreed may be admitted. Reserving all objections to the time of trial will not be permitted. At the time of trial, all exhibits that the parties have agreed will be admitted and all exhibits for which no specific objection is stated in the *Joint Pre-Trial Statement* shall be summarily admitted.

You may request conclusions of fact and law on the following issues, if they are contested: child custody, relocation requests, spousal maintenance, community property, community debt, and child support. To request conclusions of fact and law, you must file a written request with the Court before trial. If you make a written request before trial, the Court will make conclusions of fact and law as part of the final decision.

If any party asks the Court to make findings of fact and law on any issue, each party must file written proposed findings of fact on those issues. The proposed findings also must be submitted in an electronic form that is editable, preferably Microsoft Word. The proposed findings must be submitted with the *Joint Pre-Trial Statement*.

Counsel and the parties are reminded of their obligation to give prompt notice to the Court of any settlement as required by Rule 70, *Arizona Rules of Family Law Procedure*. Should the parties reach a full agreement prior to the date of trial, the Court may consider a motion to vacate trial **ONLY AFTER A SIGNED STIPULATED AGREEMENT IS PRESENTED TO THE COURT**.

Continuances, postponements, and schedule changes will not ordinarily be granted. Any postponement or change will be granted only in accordance with appropriate rules, based on a showing of good cause, and requires the express written approval of the Court.

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NOTE: All court proceedings are recorded by audio method and not by a court reporter. Any party may request the presence of a court reporter by contacting this division five business days before the scheduled hearing.

IT IS FURTHER ORDERED signing this minute entry as a formal order of this Court pursuant to Rule 81 (D), *Arizona Rules of Family Law Procedure*.

DATED this 22nd day of May 2015.

/S/ HONORABLE BETHANY G. HICKS

HONORABLE BETHANY G. HICKS
JUDICIAL OFFICER OF THE SUPERIOR COURT

10:22 a.m. Hearing concludes.

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.

Attachments:

KELLY MENDOZA: Non IV-D Payment Instructions